

15CV000453

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

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SUPERIOR COURT DIVISION

WAKE COUNTY

FILE NO. 15 CVS

WAKE COUNTY, C.S.C.

THE NORTH CAROLINA STATE BAR,

BY

Petitioner

v.

ORDER OF
PRELIMINARY INJUNCTION

MICHAEL C. STAMEY, Attorney,

Respondent

THIS MATTER came on for consideration by the undersigned Judge of the Superior Court of Wake County on motion of Petitioner, the North Carolina State Bar, pursuant to N.C. Gen. Stat. §§ 84-28(f), (j) and 27 N.C. Admin. Code Chapter 1, Subchapter B, Rule .0122 of the Discipline & Disability Rules of the North Carolina State Bar, seeking to enjoin Respondent, Michael C. Stamey, from accepting or disbursing further client or fiduciary funds from his trust account. Petitioner was represented by Barry S. McNeill, Deputy Counsel, Office of Counsel to the North Carolina State Bar. Respondent, Michael C. Stamey, made no appearance *pro se* or through counsel. Based upon the motion and supporting affidavit, the Court makes the following:

FINDINGS OF FACT

1. Petitioner, the North Carolina State Bar ("State Bar"), is a state agency duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).
2. Respondent, Michael C. Stamey ("Stamey"), was licensed to practice law in North Carolina in 1983.
3. The State Bar's membership database shows the following last known address for Stamey: Stamey Law Offices, P.A., P.O. Box 578, Jamestown, North Carolina 27282. Stamey also recently has resided with his parents, James C. and Julene B. Stamey, 1271 Meadow Lake Road, Virginia Beach, Virginia 23454.
4. Stamey maintains an attorney trust account, account number ending with 4720, at NewBridge Bank, 120 E. Main St., Jamestown, North Carolina 27282.
5. Stamey maintains a business operating account, account number ending with 4739, at NewBridge Bank, 120 E. Main St., Jamestown, North Carolina 27282.

6. Stamey formerly was a law partner in the firm of Stamey & Foust, LLP, 204 Muirs Chapel Road, Suite 300, Greensboro, North Carolina 27410, and, upon information and belief, during at least part of the time under investigation, Stamey had entrusted funds in the firm's Real Estate Trust Account, account number ending in 2530, at BB&T Bank, Greensboro, North Carolina.

7. The State Bar's preliminary investigation indicates Stamey has abandoned his law practice and was administratively suspended by the State Bar on February 7, 2013, but continues to have entrusted client funds in the trust account referenced in Paragraph 4.

8. Stamey desires to cooperate with the North Carolina State Bar, has no objection to this action by the State Bar, but has not been willing to consent to an injunction as to his trust account referenced in Paragraph 4.

9. A need for prompt action exists to ensure that the entrusted funds in Stamey's trust account are properly disbursed and not mishandled.

BASED UPON THE FOREGOING FINDINGS, the Court makes the following Conclusions of Law:

1. Prompt action, pursuant to N.C. Gen. Stat. 84-28(f), is necessary to preserve the status quo while the State Bar and/or trustee of Stamey's law practice conducts an analysis of Stamey's trust, operating and personal bank accounts to ensure that client funds are not, and have not been mishandled.

2. Stamey should be enjoined from accepting any further funds from or on behalf of clients or other individuals in a fiduciary capacity, from writing checks against or withdrawing funds from any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to write a check against or withdraw funds from any account in which client or fiduciary funds have been deposited, until and unless expressly permitted by subsequent Orders of the court.

3. To assist the State Bar's analysis of his accounts, Stamey shall provide the State Bar and/or the appointed trustee with records of all accounts in which client or fiduciary funds have been deposited, including his NewBridge trust account (account number ending with 4720) referenced in Paragraph 4 on Page 1 above, his NewBridge Bank business operating account (account number ending with 4739), and his former BB&T Stamey & Foust, LLP Real Estate Trust Account (account number ending with 2530), and with any client files requested by the State Bar and/or trustee.

4. To assist the analysis of his trust account, Stamey shall provide the State Bar and/or the appointed trustee with the reconciliation reports required to be prepared and maintained pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct.

5. Stamey should be prohibited from serving in any fiduciary capacity, including trustee, escrow agent, attorney-in-fact, executor, or personal representative until further order of the Court.

THEREFORE, IT IS HEREBY ORDERED:

1. Michael C. Stamey is enjoined from accepting any further funds from clients or third parties in a fiduciary capacity, from withdrawing any funds from and/or writing any checks against any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to withdraw funds from and/or write a check against any account in which client or fiduciary funds have been deposited until permitted by subsequent orders of the Court.

2. Stamey, or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited, shall immediately produce to the State Bar and/or the appointed trustee all of Stamey's financial records relating to any account into which client or fiduciary funds have been deposited, including, but not limited to bank statements, canceled checks, deposit slips, client ledger cards, check stubs, deposited items and debit memos and any other records relating to the receipt and disbursement of client and/or fiduciary funds, as requested by the State Bar and/or the appointed trustee.

3. Stamey, or any other person having custody or control over records relating to individuals for whom Stamey has provided legal services, shall produce to State Bar and/or the appointed trustee all client files, billing statements, memoranda and receipts. Current client files shall be produced within 24 hours of demand by the State Bar and/or the appointed trustee, and closed client files shall be produced within three (3) days of demand by the State Bar and/or the appointed trustee.

4. If Stamey does not have possession of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rule 1.15-3 of the Rules of Professional Conduct, he shall direct the bank(s) where his trust and operating bank account(s) are maintained, within 10 days of the date of this order, to copy and transmit any such missing records directly to the State Bar and/or the appointed trustee, at Garcia's expense.

5. Stamey shall immediately produce to the State Bar and/or the appointed trustee the monthly and quarterly reconciliation reports for any and all trust accounts that he is required to produce and maintain pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct. If Stamey has not prepared such reports as required, Stamey is hereby ordered to conduct the monthly and quarterly reconciliations required by Rule 1.15-3(d) of the Rules of Professional Conduct for the time period required under the Rules of Professional Conduct, or a lesser period if so specified by the State Bar, and produce the reports to the State Bar and/or the appointed trustee within two weeks of the date of this order or by the deadline set by the State Bar, whichever is later.

6. Stamey is hereby enjoined from serving as an attorney-in-fact, trustee, escrow agent, executor, personal representative or in any other fiduciary capacity.

7. This Order of Preliminary Injunction shall remain in effect until further order of this Court.

THIS the 13 day of January, 2015.


Wake County Superior Court Judge Presiding